

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: W.H. Raskind et al. Attorney Docket No.: UWOTL121680
Application No.: 10/671,007 Art Unit: 1634 / Confirmation No: 8123
Filed: September 25, 2003 Examiner: D.B. Johannsen
Title: METHODS FOR IDENTIFYING SUBJECTS
SUSCEPTIBLE TO ATAXIC NEUROLOGICAL DISEASE

RESPONSE TO NOTIFICATION OF

NON-COMPLIANT RESPONSE TO RESTRICTION REQUIREMENT

Seattle, Washington 98101

January 14, 2008

TO THE COMMISSIONER FOR PATENTS:

In response to the Examiner's Notification of Non-Compliant Response to Restriction Requirement mailed December 13, 2007, please enter the following election and remarks. This response supercedes the Response to Restriction Requirement filed on September 28, 2007.

Election

The Examiner has required applicants to elect a single sequence or combination of sequences amplified from the human protein kinase C gamma gene as set forth in Claims 43 and 44 for examination. In response to the Examiner's restriction requirement, applicants hereby elect, with traverse, the amplification of exon 4 (nucleotides 7583 to 7694 of SEQ ID NO:3) of the human protein kinase C gamma gene for prosecution in the present application. Claim 2, Claim 43 (in part), and Claim 44 read on the elected invention. The foregoing election is made without prejudice to the applicants' right to pursue claims directed to non-elected subject matter in one or more separate applications.

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Traverse

For purposes of restricting claims in this application, the Examiner has taken the position that the methods employing amplifying each of the sequences and combinations thereof in Claims 43 and 44 each constitute a distinct invention. The Examiner has further taken the position that amplification of each sequence/combination would require a different sequence search, which would pose a serious burden on the Examiner and on the Office.

In this regard, it is noted that the Examiner has incorrectly characterized the sequences listed in Claims 43 and 44 as independent and distinct inventions, requiring separate searches. Contrary to the Examiner's assertion, *each of the listed sequences is a portion of SEQ ID NO:3, as explicitly recited in Claims 43 and 44.* Therefore, a search of SEQ ID NO:3 would encompass the sequences recited in Claims 43 and 44, and thus search and examination of the sequences listed in Claims 43 and 44 can be made without imposing a serious burden on the Examiner. Moreover, as stated in the M.P.E.P. Section 803.04, "nucleotide sequences encoding the same protein are *not considered to be independent and distinct inventions* and will continue to be examined together" (emphasis added).

In view of the foregoing, reconsideration of the Examiner's restriction requirement is respectfully requested.

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CONCLUSION

Reconsideration of the restriction requirement and favorable action is requested. The Examiner is further requested to contact applicants' representative at the number set forth below to resolve any issues that may facilitate prosecution of this application.

Respectfully submitted,

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